UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/CN.4/2000/73/Add.2
27 January 2000

ENGLISH
Original: ENGLISH/SPANISH

COMMISSION ON HUMAN RIGHTS
Fifty-sixth session
Item 13 of the provisional agenda

RIGHTS OF THE CHILD

Report of the Special Rapporteur on the sale of children, child prostitution and child pornography, Ms. Ofelia Calcetas-Santos

Addendum

Report on the mission to Guatemala

GE.00-10417 (E)

CONTENTS

	Paragraphs	Page
Introduction	1 - 5	3
I. COUNTRY SITUATION	6 - 9	3
II. THE SALE OF CHILDREN	10 - 49	4
A. For intercountry adoption	10 - 45	4
B. For prostitution	46 - 47	10
C. For other purposes	48 - 49	10
III. COMMERCIAL SEXUAL EXPLOITATION OF CHILDREN	50 - 87	11
A. The role of the Government	54 - 56	11
B. Regional analysis	57 - 87	12
IV. COMPARATIVE ANALYSIS	88 - 111	17
A. On the sale of children for intercountry adoption	88 - 105	17
B. On commercial sexual exploitation of children	106 - 111	21
V. RECOMMENDATIONS	112	22
Annex: Selected list of organizations and individuals with whom the Special Rapporteur met during her mission		25

Introduction

1 On the invitation of the Government of Guatemala, the Special Rapporteur on the sale of children, child prostitution and child pornography visited the country from 19 to 30 July 1999 She went to Guatemala City, Tecum Uman, Escuintla and Coban During the visit, she consulted both governmental and non-governmental organizations and concerned individuals on issues pertaining to her mandate

2 The Special Rapporteur warmly thanks the Government of Guatemala and all those she had the privilege of meeting with for their candour in their dialogues with her She hopes that the recommendations put forward at the end of the present report will help to mobilize effective action for the protection and promotion of the rights of the child

3 The Special Rapporteur would also express her particular gratitude to the Office of the High Commissioner for Human Rights in Guatemala for its tireless assistance in ensuring a logistically and substantively successful mission, and to the United Nations Mission in Guatemala (MINUGUA) for the air transportation facilities and security assistance extended to the Special Rapporteur which enabled her to visit remote places without loss of valuable time

4 During the mission, the Special Rapporteur met with the Minister for Foreign Affairs, the Chief Justice of the Supreme Court and other members of the judiciary, representatives of the Office of the Attorney-General, the Presidential Commission on Human Rights, the Office of the Human Rights Procurator, high-level officials of Congress, and of government ministries as well as with the Chief of Police and other law enforcement officials She also met with representatives of MINUGUA, the United Nations Children's Fund (UNICEF), the United Nations Development Programme (UNDP), the European Union (EU), and embassies of Canada, France, the United Kingdom and the United States She also met with representatives of non-governmental organizations (NGOs), of adoption agencies, and with departmental, religious and Mexican consular authorities in Tecum Uman She also had the opportunity to visit several orphanages in Guatemala City

5 A selected list of persons and organizations with whom the Special Rapporteur met during her mission is annexed to the present report

I COUNTRY SITUATION

6 The population of Guatemala numbers 10 million, 50-60 per cent of whom are indigenous peoples belonging to 22 ethnic groups, mainly of Mayan descent Each group has its own language and at least 80 per cent of the indigenous peoples in those departments where they are the majority speak only their own language Agriculture is the primary source of income, and the country exports coffee, bananas, sugar and cotton, as well as corn, tobacco, wheat and cocoa Tourism is an important contributor to the country's economy

7 Poverty and illiteracy are common in Guatemala It is estimated that 46 per cent of the households in the north-western and south-western regions live in extreme poverty (In comparison, 12 per cent of households in the metropolitan regions live in extreme poverty)

There is also a large disparity of wealth in Guatemala. It is estimated that the wealthiest 20 per cent earn 30 times more than the poorest 20 per cent, 70 per cent of the arable land is owned by less than 3 per cent of the population.

8. Among all persons aged 7 and up, the literacy rate is around 60 per cent. However, in rural areas 70 per cent of the population is illiterate, compared to 30 per cent in urban areas; 40 per cent of the indigenous population cannot read Spanish, the official language of the country.

9. In 1996, the Government of Guatemala signed a final peace accord with the armed guerrilla opposition group, thereby ending a 30-year civil war. The years of internal armed conflict generated 34,000 refugees and 1 million internally displaced persons, of whom more than half are children.

II. THE SALE OF CHILDREN

A. For intercountry adoption

10. Of all the concerns of the mandate of the Special Rapporteur, the sale of children is of particular concern in Guatemala. The sale and/or trafficking of children out of Guatemala mainly occurs for the purpose of intercountry adoption, but there are also reports of the trafficking of children into Guatemala for the purpose of prostitution.

11. Intercountry adoption developed into a profitable business as a result of the large number of children who were orphaned or abandoned during the years of conflict. What started out as genuine efforts to place quickly children in dire need of homes turned into lucrative business deals when it became apparent that there was a great demand in other countries for adoptable babies. The situation within Guatemala, including the extreme poverty, a high birth rate, and lack of effective control and supervision of adoption proceedings, sustained this trade, and the demand was further increased in 1997 when neighbouring Honduras began to take measures to stop illegal adoptions in that country.

12. Guatemala currently has a very high rate of adoptions. According to statistics from the courts, there were 1,252 intercountry adoptions in 1997, 1,332 in 1998, and 772 in the first five months of 1999. This number is particularly high when compared with, for example, Ecuador, which has a total of about 50 adoptions per year. Ninety-five per cent of the adoptions of Guatemalan babies are intercountry; it is reported that Guatemala is the fourth largest "exporter" of children in the world. Statistics from the Office of the Attorney-General (Procuraduría General de la Nación) show that the top five receiving countries for the years 1997 and 1998 were the following:

Approved adoptions for 1997

United States	831	(71%)
France	163	(12%)
Canada	67	(4%)
Spain	51	(3%)
Italy	43	(3%)

Approved adoptions for 1998

United States	854	(62.34%)
France	166	(12.11%)
Canada	73	(6.33%)
Spain	71	(5.19%)
Italy	32	(2.34%)

13. Of course, some adoption proceedings are completely legal. In these cases the child is surrendered freely by the mother, or both parents, or the child has been declared abandoned. However, according to the information obtained, legal adoption appears to be the exception rather than the rule. Since huge profits can be made, the child has become an object of commerce rather than the focus of the law. It would seem that in the majority of cases, international adoption involves a variety of criminal offences including the buying and selling of children, the falsifying of documents, the kidnapping of children, and the housing of babies awaiting private adoption in homes and nurseries set up for that purpose.

14. A network of nurseries, foster homes, temporary homes and foster families has been created. The number of children sent to State homes in favour of private homes has declined considerably in consequence. Some of these homes are approved by the Ministry of the Interior and function as orphanages or non-profit associations while others exist only to facilitate the work of the international adoption network. They would be in violation of the law if only because they are businesses that are not registered with the Ministry of Health or the Ministry of Finance.

I. International legal framework

15. The Convention on the Rights of the Child was ratified by Guatemala by Ratification Decree No. 27-90 of the Congress of the Republic on 10 May 1990, and entered into force on 2 September 1991. It was the sixth country to ratify the Convention. Guatemala submitted its initial report to the Committee on the Rights of the Child in 1995 (CRC/C/3/Add.33). In its concluding observations (CRC/C/15/Add.58), the Committee expressed its appreciation to the State party for its openness in acknowledging the problems, difficulties and challenges it was facing in implementing the principles and provisions of the Convention. The Committee welcomed the steps taken to secure a durable peace within Guatemala, particularly by enhancing the enjoyment of human rights, including for the indigenous peoples.

16. The Committee expressed its concern over deficiencies in the system of birth registration in that the failure to register children prevented them from being recognized as persons, from having access to education and health services and from being protected against trafficking and illegal adoption. The Committee also noted with concern the information provided by the State party that an illegal adoption network had been uncovered and that the mechanisms to prevent and combat such violations of children's rights were insufficient and ineffective.

17. The Special Rapporteur would echo these and other concerns. The Government has still not brought into effect laws that reflect the spirit of the Convention.

18. Guatemala has not yet acceded to the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption. In the meeting with the Minister for Foreign Affairs, the Special Rapporteur was given the excuse that the lack of a certified copy of the Convention was holding up accession to the Hague Convention.

19. The information provided to the Special Rapporteur suggests that Guatemala has the weakest adoption laws in Central America. Several drafts of adoption laws are pending in Congress but no action has as yet been taken. Trafficking of children is not even typified as a crime under the law. It is reported that a stiffer penalty is imposed for the theft of a car than for the theft of a child.

20. In 1996, the most important draft legislation in Guatemala concerning children was the Children and Adolescents' Code. Both State and non-State organizations worked for its adoption. Initially, all political parties were in favour of the Code but it became a very politicized issue. The main resistance came from people involved in intercountry adoptions who feared that greater protection could interfere with their economic interests since the new Code provided for imprisonment for six years of convicted traffickers of children. They are reported to be largely responsible for encouraging the apprehension of some conservative sectors that the Code would undermine the family unit. As a result of this resistance, the date on which the Code was to come into force has been postponed three times.

21. In almost all the discussions the Special Rapporteur had, both with governmental and non-governmental actors, it became clear that the real objection to the Children and Adolescents' Code is perceived to be that it would pave the way for the passage of the Adoption Bill, which has also been languishing in Congress.

22. The Special Rapporteur was informed that the first postponement of the entry into force of the Code was made at the request of the then President of the Supreme Court, since that time, there have been allegations that his wife is one of the lawyers involved in the trafficking of babies.

23. The Code is now scheduled to enter into force in March 2000, and it is hoped that by then consensus can be reached. In a meeting with the Special Rapporteur, the President of Congress, Leonel López Rodas, assured her that he was very much aware of the problem of sale of children for adoption in Guatemala and that he would definitely push for the entry into force of the Code, and for the passage of the Adoption Bill. He said there were still certain issues that were the subject of debate regarding the latter, such as the creation of an institute that would handle all adoption cases, and whether such an institute should be staffed by government officials or NGOs. Nineth Montenegro, President of a commission set up to follow developments relating to the Code, considers an autonomous adoption centre to be a good idea. All the relevant agencies - UNICEF, the Catholic Church, representatives of executive bodies and the various ministries - agree that the Children and Adolescents' Code is very important, not least because there are about 6 million children in Guatemala, accounting for 51 per cent of the population.

24. UNICEF, in cooperation with the Latin American Institute for Education and Communication (ILPEC), formed an investigative team on adoption, one of the goals of which is to make the adoption procedure more transparent. The team will submit its findings to Congress in order to assist it in the consideration of the Adoption Bill.

2. Methods of adoption

25. There are two ways to adopt a child in Guatemala. The first is through a lawyer or notary (the private (extrajudicial) adoption process), the second is through a Government-recognized adoption agency or orphanage (the public (judicial) adoption process). Both processes are initiated by either the biological parent or by the person seeking to adopt. The biological parent makes a declaration to an attorney that the child is being given up for adoption. The person wishing to adopt gives the lawyer a power of attorney for the lawyer to locate a child or to do the legal work if a child has already been identified. The same attorney usually acts for both the biological and the adoptive parents. The legal work pertains to the adoptive parents' documents and those of the child. The latter are the birth certificate and the irrevocable consent of relinquishment of parental rights of the child's biological parent - usually the mother. If both parents are alive, there may also be a need for a declaration of abandonment issued by the minors court of Guatemala, for example to satisfy United States immigration requirements.

26. Upon petition of the lawyer, the family court assigns a social worker to undertake a case study of the biological mother and other family circumstances of the child and to analyse the home life of the adoptive parents. This is the only participation by the family court in the whole procedure, and it is necessary only because the notaries or lawyers concerned need the services of the court-appointed social worker.

27. Following a favourable recommendation by the social worker, the lawyer submits all the documents to the Office of the Attorney-General for review. The Office of the Attorney-General only checks to see that the documents are in order. If there are doubts, or if there is a suspicion that the papers have been forged, an investigation is conducted and should there be any reason to believe that an offence has been committed, the file is passed on to the prosecutor's office. Upon approval of the documents, the lawyer draws up the final adoption papers, obtains a new birth certificate in the adoptive parents' names, and obtains a Guatemalan passport in the child's new name.

28. Public or judicial adoptions require a court decree only when the parents are known to have died or deserted the child or when there is doubt about the real birth mother. The process grants considerable discretion to the judges, both in terms of the time that the process takes and the basis on which the decision is made. The juvenile court, not the family court, will first have to declare the child abandoned. The process usually takes about a year.

3. Locating children for adoption

29. Almost everyone the Special Rapporteur spoke with in Guatemala City gave the same account of how children are located for intercountry adoption. The lawyer or notary processing the adoption is the most active actor in the whole procedure (and the person who benefits most),

finding the babies to be placed for adoption, representing both the birth mother and the adopter, and issuing the certificate of adoption. It is likewise reported that the lawyers handling adoptions, in collusion with others, also operate houses where children who are stolen or purchased are cared for while awaiting finalization of the intercountry adoption. These are known as "casas cunas" (cot or crib houses) but are often derisively referred to as "casas de engordeza" (fattening houses).

30. Prior to the mission, the Special Rapporteur had indicated her desire to meet with the Bar Association of Guatemala. Her request was initially denied by the Association but towards the end of the visit they changed their minds and the Special Rapporteur was able to have a fruitful dialogue with them. She took that opportunity to explain that she was not opposed to the institution of adoption, whether it be national or intercountry, and that she had not visited Guatemala with the purpose of evaluating the advantages of one over the other. She was interested in examining allegations of sale of children, regardless of the purposes of the transaction. She stressed that she considered the sale of a child to be inherently abhorrent even where the intentions were most noble, as it violated the human rights of the child and reduced the child to an object of trade and commerce.

31. According to the information received networks of (usually female) recruiters, hired by lawyers, pay rural midwives approximately US$ 50 to register the birth of a non-existent child, using a false name for the birth mother. Upon payment of approximately another US$ 50, another woman "becomes" the mother and is given a baby - usually stolen - and told to take the baby to Guatemala City to give it up for adoption. The woman signs the notary's documents giving up "her" child and the baby is placed in a foster environment, preparatory to adoption proceedings.

32. In Tecún Umán, the Special Rapporteur learned of the case of two sisters involved in trafficking in babies. They worked by contracting women when they became pregnant, either through persuasion or deception. When the police raided the house of the sisters they found baby clothes and pregnant women there. The sisters were arrested and one of them was imprisoned for 6-7 months, but upon her release returned to the same activities. The woman has been able to continue her "trade" despite her activities being common knowledge in the area.

33. There are notaries and lawyers who buy babies while they are still in the mother's womb. The purchase is arranged by the lawyers and notaries either personally or through agents and middlemen. Even the birth takes place under the supervision and care of the notary.

34. A minor's court judge is under investigation for allegedly being part of the trafficking network. It would seem that she was involved in declaring stolen babies abandoned and referring these babies to the same adoption agency.

35. Another means of procuring babies for international adoption is allegedly by tricking or drugging illiterate birth mothers into putting their thumbprint on blank pieces of legal paper which are subsequently filled in to read as a consent to adoption of the baby. The mothers are then threatened by the lawyers if they attempt to get their babies back. Ignorant of the law, these fearful mothers often painfully give up the fight and assume that nothing can be done to help them because they are poor.

36. In general, recruiters prefer to deal with mothers whose babies have not yet had their births registered, or have not yet been born. The recruiters use middlemen to seek out pregnant women who, because of poverty or prostitution, might be willing to give up their children or to sell them. The search is conducted in such places as markets, doctors' offices, and even in the hospitals.

37. A high percentage of the children who are given up for international adoption are the children of prostitutes. They are not only offered money for the child, but are given financial support during the pregnancy and after the birth.

38. When a biological mother cannot be persuaded to give up her child, recruiters often resort to threats or even baby-stealing. In Escuintla, the Special Rapporteur was told of the case of a prostitute who was pregnant and was threatened with death by the owner of the bar where she worked if she did not give up her baby for adoption. The bar owner worked in cooperation with a midwife, and the pregnant woman was taken to the house of the midwife and kept there under lock and key with other pregnant prostitutes until she gave birth. She did not see her baby again.

39. A smaller percentage of the children come from families living in extreme poverty, who give up their children for economic reasons. Another group is made up of the children of rural women who go to the capital to give birth and then give the child up for adoption or sale before returning to their homes.

40. One worrying development that was reported to the Special Rapporteur is the contracting of women to bear a child and who then register it, take care of it for three months and then give it up for adoption. During the three months they receive medical care, food and money. After the adoption papers have been signed, the child is given to a nursery. The Special Rapporteur was told about one woman who had given birth to six children, all of whom she gave up for adoption.

41. There are also women who are paid to abandon their babies in or near a hospital. The mothers are paid in advance to leave the child, and often enter the hospital under assumed names. The babies are then sent to one of the State-approved homes. In cases where the abandonment of a baby has been previously arranged, the interested parties take the mother to the hospital and then attend all the hearings in order to locate the child after it has been sent to a home.

42. Illegal activities many times take place in the hospitals. At the birth, hospital workers have been known to falsify the birth records, social workers to facilitate the declaration of abandonment, doctors to give false information to the biological mother that the newborn is seriously ill. For lack of funds, poor mothers often are not able to return to the hospital daily to visit their newborns who then disappear or are declared abandoned. Sometimes, when the pregnant women who have agreed to sell their babies come to the hospital they already have an identification card in the name of the adoptive parent. Thus, the birth certificate is issued in the name of the buyer, thereby eliminating the need to go through the adoption process.

43. Some staff members in the hospitals are apparently involved in the business. Information is systematically leaked out of the hospital about the babies there. It is very easy for interested people, especially those working in embassies, to get this information. In Escuintla, one worker

in a hospital told the Special Rapporteur that she was told by a doctor in the hospital to let him know the moment there was a new baby. Even a judge who owns an adoption home went to see her at the hospital to ask if there were "available babies" there.

44. There are midwives who offer pregnant women free check-ups in their clinics, during which time the women are often persuaded to sell their babies. (In Escuintla, some of these midwives are in Colonia Portales, Palmeras del Norte and in Porto San José.) If the women agree, they would give birth in the clinic, then leave without the baby, but with money paid to them. It is reported that one such clinic is in the same building as a lawyer handling adoptions.

45. The practice of false mothers presenting babies for adoption came to light when the Canadian embassy began carrying out DNA tests on babies and their "mothers" in 1997. Many results demonstrated that the women giving up the babies were not the birth mothers. Because of the attention given to illegal adoptions from Guatemala, the United States and the United Kingdom Governments now require DNA testing of all babies being adopted from Guatemala.

B. For prostitution

46. Several cases of sale of children for prostitution were reported to the Special Rapporteur during her visit to Tecún Umán. One case involved seven minors involved in prostitution, two of whom had been sold. The children were aged 14-16 when they started. They had been totally deprived of their freedom, forcibly tattooed, forced to drink alcohol, forced to take drugs and if a client complained, they were beaten with an iron rod. The couple who forced them into prostitution received sentences of 13 and 6 years in prison respectively but through appeals, the charges were reduced to soliciting and pimping, and they were then merely fined and released.

47. Many of these children are sold to pimps. State officials informed the Special Rapporteur that there are children from El Salvador, Honduras, Mexico and Nicaragua who are in Guatemala for prostitution, in much the same way that Guatemalan children are in those countries for the same reason.

C. For other purposes

48. The sale of children for purposes other than adoption or prostitution has not come to light anywhere in the country except for some sensational reports about sales of children for the purpose of organ transplantation which surfaced about four years ago. However, no cases were ever proven and the rumours petered out. World Health Organization officials in Guatemala who investigated the reports could not substantiate the allegations. Some individuals believe that the rumours were part of an orchestrated campaign to foster resentment against foreigners, especially during the peace negotiations.

49. In this connection, there was a case involving an American tourist who was taking pictures of children. She was arrested and taken to the capital because it was feared that she wanted to steal the children for organ transplantation. Guatemalans reacted violently and a riot destroyed the building in which she was being held. However, subsequent investigation failed to substantiate the charges against her and the case was dropped.

III. COMMERCIAL SEXUAL EXPLOITATION OF CHILDREN

50. As a result of armed conflict, there are some 150,000 orphans and 50,000 widows, mostly indigenous people. The violence and massacres of the early 1970s and 1980s deprived thousands of Guatemalan children of one or both parents. Often indigenous villages were so decimated that few people capable of caring for children remained. Many orphans have ended up in refugee camps, in orphanages, or on the streets of the cities without any adult caretakers.

51. In 1994, it was estimated that there were between 1,500 and 5,000 street children in Guatemala, most of whom could be found in Guatemala City. Twenty to 30 per cent of street children are females and 65 five per cent of all the street children in Guatemala City are between the ages of 10 and 17; 3 per cent are under 10. Most (60 per cent) are from Guatemala City itself, while the rest are from rural Guatemala, Honduras or El Salvador.

52. The vast majority of children who live on the streets do so because they have been abused or abandoned by their parents. It is reported that 64 per cent of female street children have suffered sexual abuse by family members. The main sources of income for these children are robbery, prostitution or begging, and it is estimated that as many as 90 per cent of the street children engage in substance abuse, for example inhaling shoe glue or paint thinner.

53. The Police Commissioner acknowledged to the Special Rapporteur that there are many children in prostitution in the country, most of them between the ages of 15 and 17. Many of the minors become caught up in prostitution whilst trying to travel north to the United States. The Police Commissioner told the Special Rapporteur of a case involving a Guatemalan man trafficking young Nicaraguan girls into the United States for prostitution. He also recounted some of the problems he faced concerning the treatment of street children by policemen. He had started to investigate allegations of policemen interfering with and sexually harassing street children and had requested the NGO Casa Alianza for assistance in gaining access to the street children. The Police Commissioner felt that the image of the National Police is starting to improve and there is a high degree of confidence in them in most sectors of Guatemalan society, including the media and the opposition parties.

A. The role of the Government

54. The Government of Guatemala participated in the World Congress against Commercial Sexual Exploitation of Children held in Stockholm in 1996, and undertook to work for the eradication of the commercial sexual exploitation of children. However, no government agency has been given responsibility for follow-up action. There are no clear public policies or institutionalized practices that could help save children and rescue them from prostitution.

55. The law provides penalties of up to six years in jail for promotion of prostitution, but when the police raid brothels, the child prostitutes are the ones to be arrested. If they are Guatemalan, they are taken to protection centres. If they come from other countries in the region, they are taken to the border for return to their country of origin.

56. The Centre for Counselling, Diagnosis and Treatment of Sexually Transmitted Diseases (CODETS) conducted a survey of street children referred by Casa Alianza in 1992. One hundred and forty-three street children filled out a questionnaire. All of them had been victims of sexual abuse, 53.2 per cent by relatives, 38.46 per cent by strangers. When asked to identify their first sexual partner, 23.1 per cent declared a parent, 18.9 per cent an uncle, 8.7 per cent a brother, 4.2 per cent a cousin, 5.6 per cent a friend, 1.4 per cent a boyfriend and 39.9 per cent a stranger. The majority of the boys (70.6 per cent) said that they had 1 or 2 sexual partners a day. All the children were involved in prostitution, but neither they nor their partners used a condom. All reported having an STD, especially genital herpes (78.3 per cent) and gonorrhoea (46.65 per cent). All of the children were addicted to drugs. Sniffing glue was the most widespread practice, owing to its availability, price, easy transportation and storage. They also consumed alcohol, marijuana, tranquillizers and crack.

B. Regional analysis

1. Guatemala City

57. Child prostitution is very visible in Guatemala City. The police estimate that over 2,000 girls and boys are being exploited in over 600 brothels in the capital alone. This was confirmed by the NGO Redda Barnen. There are no estimates for other parts of the country but it is believed that there are also children in prostitution in other areas. In her night-time tour of the city, accompanied by personnel from Casa Alianza, the Special Rapporteur saw for herself very young children soliciting in the streets.

58. Taxi drivers know the areas where children can be found, and are instrumental in the commercial exploitation of children in the city. They pick up the children and take them to clients. In one instance, a taxicab stopped close to a group of children and a 10-year-old girl with whom the Special Rapporteur was talking immediately hopped in the cab and left.

59. The Special Rapporteur was informed that in Las Golondrinas there is a brothel where there are girls 8-12 years old.

60. Boys are in prostitution as much as girls. Almost all the children the Special Rapporteur saw were sniffing glue or solvents. They were very open in admitting the nature of their activities in the street and did not attempt to hide anything from the Special Rapporteur.

61. The Commission for Women, Minors and the Family (Comisión de la Mujer, el Menor y la Familia) expressed its concern over the amount of violence against children, most of which is sexual in nature. They report that the response mechanisms are not very efficient. For example, two years ago, they reported the rape of a 7-year-old-girl, but there has still not been a detailed investigation.

62. One child intending to testify to the Special Rapporteur was abducted by unknown persons and detained for 32 hours. She was later released but her abductors did not return to her the written statement that she had prepared for presentation to the Special Rapporteur.

2. Tecún Umán

63. The Department of San Marcos where Tecún Umán is situated, was badly affected by the armed conflict. Many girls were raped and killed, others were displaced or became refugees in neighbouring countries. The conflict increased the level of poverty and destroyed the fabric of society. The girls who were raped were stigmatized and their chances of marriage were considerably lessened. Such girls have become particularly vulnerable to recruiters for prostitution. Tecún Umán is on the border with Mexico and is often called "Little Tijuana" because it is similar to that border town between Mexico and the United States. For people wanting eventually to cross the border from Mexico to the United States, Tecún Umán is the gateway to the north. Trafficking of persons is a very lucrative source of income for "coyotes", people who undertake to bring people across the border.

64. Most of the people interviewed by the Special Rapporteur admitted the existence of prostitution involving children. Estimates suggest that there are approximately 450 women and girls in prostitution in Tecún Umán and in four other areas of San Marcos, 25 per cent of whom are minors. The clientele are not tourists, but are usually locals or transients, including men from Panama on their way north. The girls are from 14 to 18 years old, with some as young as 12. The young girls work in the same conditions as the adults in the trade. They are forced to work in bars and are manipulated by bar owners; some women working in the bars have lost their children and it is suspected that the owners have sold them to traffickers. The Special Rapporteur was informed about one particular case involving a woman whose newborn baby was kidnapped in order to be sold. Of the local Guatemalan girls who are drawn into prostitution, most of them appear either to have grown up in brothels, to have been sexually abused by their fathers, or to have been deceived into entering prostitution.

65. The children of prostitutes are at very high risk of being exploited. In one raid on a bar with a house concealed behind it, law enforcement officers found four young girls who had come from Honduras when Hurricane Mitch killed their families. The bar owner was only fined Q2,000 and was released. Unfortunately most people are very reluctant to file complaints against bar owners as they fear reprisals, and the filing of a complaint is necessary for the police to get a search warrant.

66. Prostitution is illegal, but in practice many restaurants and bars are fronts for brothels. The State appears to have no control over these brothels, the owners certainly never reveal the ages of the girls, no attempts are made by locals to help the girls, and the traffickers are extremely well organized. The local authorities consider it to be too big a problem to deal with, and do not know of any alternatives other than to arrest the children.

67. In her night-time tour of Tecún Umán, the Special Rapporteur was accompanied by Sister Angelica, a nun who runs a shelter for girls in need, particularly those in prostitution. The presence of Sister Angelica was instrumental in getting the girls in the bars to talk to the Special Rapporteur openly. Bars line the main street of Tecún Umán, and behind the bars are the brothels. The Special Rapporteur had a chance to talk to six girls, all of whom were either still minors or were minors when they started out in the sex trade. One of the girls said that she was 23 years old and that she had come to Guatemala from El Salvador five years previously. During the course of the conversation, however, she told the Special Rapporteur that she had

a 3-year-old son whom she had given birth to when she was only 13. All the girls had dreams of getting out of the business because of the dangers and their desire to have more respectable work. One of the girls hoped to earn enough money to be able to cross the border and eventually join her sister in California. The Special Rapporteur was told that other than the shelter run by Sister Angelica, there are no organizations looking after the concerns of children in Tecún Umán.

68. Another difficulty faced by children in San Marcos is racial prejudice. Even in this multicultural population prejudice is rampant, even between indigenous groups. The children of families who live in the highlands and who come to work in the farms of San Marcos are often abused, physically or sexually. These children drop out of school at harvest time and have to work very long hours so that the family can survive.

69. The Mexican Consul in Tecún Umán told the Special Rapporteur that because Tecún Umán is located on a border that is very easy to cross, it attracts criminal elements from both Guatemala and Mexico. Alcohol and drug abuse are rampant even among the young people and the delinquency rate is high. There is very little coordination between the different local authorities in addressing these problems. However, the Consul expressed confidence that cooperative measures could be put in place between the two countries for the protection of children since both countries are signatories to the Convention on the Rights of the Child.

3. Escuintla

70. Escuintla is a highly industrialized area characterized by the presence of garment factories and other commercial activities, and attracts migrants from across the country who come in search of employment.

71. Prostitution is very visible in Escuintla, particularly in Zone 1, primarily at 5th and 6th Avenues. Several of the bars in the area are known to have young girls working as prostitutes in them. The Special Rapporteur was informed that a woman in Santa Lucía is known to offer girls aged 7-9 as prostitutes. The Central Park, which is right in front of the town hall and police station and very close to the church, is where children come after school to solicit. The Women's Association of Escuintla told the Special Rapporteur that they see girls from 12 to 17 years of age soliciting in the park every night.

72. In a meeting with the governor, town officials, teachers, health workers, and NGOs, the Special Rapporteur was told that child prostitution is rampant in Escuintla. In the San Felipe colony, there are mothers who take their 8- to 12-year-old daughters to a men's jail twice a week on visiting days in order to offer them to prisoners as prostitutes. The children earn Q3-5 per client. As the children are taken out of school by their mothers for this purpose, teachers expressed their frustration at being unable to intervene. The teachers also expressed their concern for the health of the children and are afraid the girls might be infected by HIV. Two girls had just dropped out of school because they were pregnant.

73. Medical staff from the health centre faced the problem of not being able to examine children in prostitution or who have been sexually abused without parental consent. Many

parents will not give their consent, which then gives rise to suspicions of complicity of the parent in their child's prostitution. The medical staff told the Special Rapporteur that they had seen cases of children under 5 years old with sexually transmitted diseases.

74. The Special Rapporteur was informed that most of the girls working in brothels have false identification documents. Many girls come from El Salvador, having been deceived and promised legitimate work. When questioned, the girls usually say that they were contracted to work as waitresses, but in effect were abducted. They are locked up and are only released when the police search the bar, giving them an opportunity to go to the health centres where it is usually discovered that they are minors. The culture of impunity which is still prevalent in the country makes health workers very reluctant to spend time trying to prosecute the bar owners, as it is perceived to be a waste of time.

75. A worker in a hospital in Escuintla told the Special Rapporteur about a 9-year-old girl who had been left in a brothel by her mother. The child was raped and beaten by the son of the owner, so severely that she was taken to hospital, at which point the brothel was investigated. The police discovered that she had been kept there for the purpose of prostitution, and the case was taken to the minors court. Even in the hospital, the child was threatened by the son of the owner. She was eventually placed in an orphanage.

76. Representatives from the Escuintla Community Child and Youth Protection Programme told the Special Rapporteur that there are very cheap boarding houses in Escuintla where the street children pay Q3 to sleep on the floor. The boarding houses are very crowded and are occupied by all sorts of people, including alcoholics and drug addicts. The children are often sexually abused, but most of them sniff glue and so do not report it.

77. The following are some of the problems that were brought to the attention of the Special Rapporteur and which may be other factors contributing to the vulnerability of children to commercial sexual exploitation:

(a) Many girls are abused by family members and do not get support from their mothers;

(b) Many girls are also abused at school. In particular, the Special Rapporteur was told about a case involving a girl in Petalayo, whose teacher wrote the names of the muscles on her body. The mother made a complaint, but the Ministry of Education refused to fire the teacher. In the event, he was transferred to a different school, and the mother received threats by telephone which dissuaded her from taking the case further;

(c) The ignorance and lack of education of many parents also contribute to the vulnerability of their children. Many children contract venereal diseases, and the mothers believe that they got them in the school toilets, which are usually dirty, so the parents blame their children's diseases on the teachers;

(d) Many parents do not take their child to a health centre, even if they suspect that the child has been sexually abused, as they fear that the police, and subsequently the media, will become involved;

(e) Concerns were also raised about the nature of the television programmes available to children. No controls exist over the contents of programmes and it was reported that children can watch pornography at any time.

4. Cobán

78. The population of Cobán is mostly indigenous, primarily Qechi (about 85 per cent), and Pogomchi (3 per cent). Cobán is reportedly the second-poorest region in the country after Quiche and the most marginalized in all areas of national policy. The people of Cobán consider that they are the most discriminated against. It has the highest rate of illiteracy - 95 per cent of indigenous women are illiterate. This is due to the lack of accessible schools, which in any case only teach in Spanish, and discrimination against girl children when it comes to education, as women are generally expected to work only at home. All 15 of the municipalities of Cobán have schools, but many of the villages are in the mountains and are far from the municipal centres where the schools are.

79. In a meeting with Monsignor Gerardo Humberto Flores, the Special Rapporteur was informed that Cobán has the poorest educational coverage - only 35 per cent of school-age children have access to schools. For 3,200 villages there are only 693 schools. Lately, however, there has been marked improvement, in part because of efforts of the Church. An education project being run by a priest has 700 rural schools now operating with about 45,000 indigenous pupils and more than 1,000 teachers, also indigenous. However, some of the teachers have not yet graduated but are still working for their teaching diplomas.

80. The most acute problem facing children in Cobán is exploitation through labour, particularly on the coffee plantations where children are recruited to work at a very young age. Plantation owners are legally obliged to send their child workers to school, but very few respect this.

81. Prostitution occurs on a large scale in Cobán, partly because of poverty and also because of violence and maltreatment in the family. The problem started in 1985 when people settled around the city and left their villages, which had been destroyed. In the Alta Verapaz area 100 villages were destroyed and 40 per cent of the population displaced - they had to leave in order to survive. All the settlements are poverty belts around the city and have become serious problems.

82. As recently as 1998, only boys could be seen hanging around on the streets, but since the beginning of 1999 girls have also become visible. In one case, children were caught stealing items for three adults - one Guatemalan and two Salvadorans, who paid the children with drugs. The children were arrested and formally accused but were later released without being charged.

83. The police in Cobán told the Special Rapporteur that child prostitution is generally believed to exist around the park where the children gather. More and more girls are now frequenting and soliciting in the park but the police cannot do anything because the girls leave the park with their partners to go to private places or motels. Close to the airport in Cobán there

is a military camp and the girls also go there to prostitute themselves. Girls working in restaurants and cafés are also at high risk of becoming involved in prostitution. They become used to drinking alcohol and they are subject to advances by the customers.

84. Violence against girls within the family environment is very common in Cobán. Many girls are sexually abused by family members. This is due to several factors, including that whole families often live in just one room. There are also alarming reports of cultural practices in some ethnic groups where the father is the one to take the girl's virginity. The Government of Guatemala is trying to combat this practice through a national campaign.

85. Others are subject to sexual abuse by the owners and other employers of the fincas (farms) where their families work. The owners of the big fincas are mostly Ladinos or people of German descent who had in the past been awarded land by the State. Girls in the countryside are particularly threatened because they work in isolated places. There are very few girls who escape being molested because of the general attitude that women and girls are simply sex objects.

86. It is very difficult for these girls and their families to have access to government facilities. This is partly due to the inaccessibility of many of these areas, especially those in the mountains, but also to the lack of resources. In one case a young girl was raped and had a child but could not file charges against the alleged father of the child, namely her teacher, because the authorities required DNA testing which could only be done in the United States, and was therefore too expensive. The sexual abuse has resulted in a large number of unmarried mothers, especially in Alta Verapaz. Abortion is also a common practice, although it is not done openly.

87. Despite the many problems in Cobán, it has the lowest delinquency rate in Guatemala, an asset that is attributed to the presence of indigenous organizations and a strong family network through the indigenous communities.

IV. COMPARATIVE ANALYSIS

A. On the sale of children for intercountry adoption

88. This section intends to present a general situation analysis of the sale of children for intercountry adoption. It is not intended to be a comparative analysis of national vis-à-vis intercountry adoption. Neither is it intended to discuss the advantages or disadvantages of one over the other.

89. The Special Rapporteur would like to emphasize that it is quite difficult to obtain a comprehensive and accurate view of a country, especially one as diverse as Guatemala, during a two-week visit. At the same time, however, the intensive programme of the visit enabled her to gain an understanding of the situation in Guatemala sufficient to form the basis of her recommendations.

90. National adoption seems to be quite straightforward and does not pose any threat to children. More problematic is intercountry adoption. The lack of clear guidelines either by way

of legislation or by way of policy coupled with vested economic interests have created a host of complex issues which make even an objective discussion very difficult. The Special Rapporteur is convinced that trafficking of babies and young children for intercountry adoption exists in Guatemala on a large scale. The Special Rapporteur would enumerate some of the weaknesses in a system that lends itself to the nefarious practice of reducing children to commercial objects to be offered to the highest bidders. These weaknesses are described in the following paragraphs.

91. The decision whether an adoption will be handled through lawyers/notaries or family courts is ostensibly made by the person who is putting the child up for adoption. In actuality, however, it is the lawyer handling the adoption who makes the decision, which is almost always private adoption because the lawyer has greater control and stands to make more money. In her conference at Hogar Rafael Ayau, one of the four orphanages to which the Government sends abandoned and other needy children, the nuns running the orphanage suggested that only 1 in 30 adoptions are processed through these orphanages as judicial adoptions. The rest are done privately through lawyers. The nuns complained that the parents are being discouraged by the lawyers from giving their children to the orphanages. Parents also prefer to go to the lawyers because the lawyers give them money.

92. The best interests of the child put up for adoption are rarely considered in the whole process. Under most arrangements the biological parent does not have any say in who will become the child's adoptive parent. The notary/lawyer chooses the adopters, and he/she is highly unlikely to give the child to a family in Guatemala, where the adoption procedure would only cost about Q3,000 (about US$ 300). He or she would prefer to give the child to a foreign couple who may be willing to pay as much as US$ 25,000. Thus, the best interest of the child is totally ignored, and the adoption becomes purely a business transaction.

93. The cursory participation of the family courts and the Office of the Attorney-General in private or extrajudicial adoptions does not provide any effective control over the proceedings. In her dialogue with the association of lawyers involved in adoptions, the lawyers maintained that the whole process is subject to rigid control by the Government because they have to pass through not only the family courts but also the Attorney-General's Office. However, meetings with the family courts and the Attorney-General's Office revealed that while the family court assigns the case to a social worker, it does not supervise the social worker in the conduct of the case. Likewise, the Office of the Attorney-General simply reviews the documents presented to it and cannot look into how the papers were obtained. The role of the Attorney-General's Office is only to ensure that the documentary requirements are complied with; they do not go beyond the paperwork.

94. In cases where a declaration of abandonment from the minor's court is necessary, a very long wait is often involved which could last up to seven years, particularly for children who are in government institutions or religious or non-profit nurseries. The Special Rapporteur had a chance to visit several orphanages where she heard the common concerns regarding the much greater difficulty they have with the judicial adoption process than with the lawyers dealing with private adoptions. Since the children in the orphanages are mainly abandoned children, the

orphanages have to go to minor's court to get the required declaration of abandonment. The process takes years, and very often when they get the declaration the child involved is no longer considered adoptable. Lawyers dealing with private adoptions, however, are able to get a declaration of abandonment for babies before they are even born.

95. In a study done by UNICEF in collaboration with ILPEC, out of 90 adoption files, 79 were private adoptions arranged directly between the biological mother and the lawyer and only 11 involved children from orphanages. It has been established that the orphanages and established institutions are filled with children who are not being adopted. The situation raises fears that the children who are being readily adopted are those who are being produced for the purpose, whereas the ones who are really in need of a family remain in institutions.

96. The adoption procedures are not very transparent. When done through lawyers, there is no check on the origins of a child and no follow-up or monitoring of the procedure. The adoption may well be legal in that it is in keeping with the law, but it may be accompanied by irregularities. The lawyers take advantage of "voluntary jurisdiction" whereby it is not necessary for the judge to be involved in the adoption procedure. It is reported that 99 per cent of adoptions are through lawyers and notaries and of these, 95 per cent are intercountry adoptions.

97. The emoluments of lawyers and notaries are not subject to regulation, which contributes greatly to the escalation of adoption costs. It is reported that the cost of an intercountry adoption could be as high as US$ 20,000-$25,000. This enables the lawyer to give incentives or commissions to recruiters, and to contacts in the courts and different government agencies to facilitate the adoption.

98. In private adoptions, where the mother gives her child directly to a lawyer, it is very difficult to verify the origin of the child. The social worker often does not pay home visits owing to lack of time, or because the social worker acts in connivance with the lawyer. In her dialogue with the family court judges, the Special Rapporteur was told that even the addresses given by the supposed biological mother often turn out to be fictitious. She was also told that some lawyers handle up to 15 adoptions a month using the same social worker. Social workers are part of the staff of the family court, but in adoption proceedings the social workers act on their own responsibility and under oath and are not subject to the supervision of the courts. The Special Rapporteur met one judge who had sought to have better control over the adoption system; however, she was threatened and the court supervisory body received complaints against her.

99. Adoption proceedings can be initiated anywhere in the country. Women recruited in the provinces are instructed by the lawyers to go to Guatemala City to give birth as it is much easier for the lawyers to control the adoption proceedings and to conduct irregular practices in the capital. Family courts in the provinces have better facilities to verify the child's origins and home situation. Lawyers also want to be sure that the mothers are readily available when the time comes for them to affirm to the court or to an embassy their consent for their child to be adopted. According to one person involved with the issuing of visas in the French embassy, lawyers assist the mothers in Guatemala City until the end of the process to ensure that the mothers do not disappear.

100. Intercountry adoptions are much preferred to national adoptions. As previously explained, lawyers handling adoptions almost always opt for intercountry adoption. Below are some other reasons why there are generally fewer possibilities for national adoption.

(a) Most Guatemalans cannot afford the high cost of adoption;

(b) Many local adoptions are informal arrangements between relatives and are not formal adoptions per se;

(c) Some local adoptions are not registered as adoption at all but, by falsifying documents, as normal births;

(d) The high birth rate in Guatemala means that comparatively few Guatemalan couples are childless;

(e) Guatemalan couples wanting to adopt generally have more stringent requirements for the children they want to adopt, for example, the colour of the hair and eyes, the ethnic origin, etc.;

(f) Guatemalans rarely adopt publicly; they prefer clandestine adoption not only because it is cheaper but also because they do not want people to know that the child is not really theirs by birth. Thus, the statistics do not really reflect the true picture.

101. The system of identification of persons in the Civil Registry lends itself to every type of falsification. Documents are invented. There exist cases where intermediaries look for a poor couple who do not have the means to lodge a complaint. They ask the couple to sign a power of attorney, in return for money, so that a passport can be obtained in the name of their child. The power of attorney is then authenticated by a notary. This document and the passport of the couple's child is then used for a different child. Mario Taracena, the former head of the Guatemalan Congressional Commission on the Protection of Minors, told the Special Rapporteur that in Guatemala it is easy to obtain any document for a few cents, including a birth certificate.

102. The weaknesses in the system have been such that they have resulted in clear absurdities. The Special Rapporteur was told that one woman "legally" had 2½ children a month, whom she gave for adoption, and all the adoptions fulfilled the legal requirements - 33 children of the same mother in 2½ years. This was discovered through the visa section of the United States embassy, but by that time 33 children had already left Guatemala. In another situation, a total of 40 adoptions in one year took place in a very small town called Catarina, in San Marcos. The Special Rapporteur was told that this number amounted to more than half the total number of babies born in Catarina in one year.

103. The current situation is such that instead of seeking parents willing to adopt needy children, the production of babies to supply adoptive parents is being encouraged. There are even advertisements appearing on the Internet - the younger the child, the higher the cost. The prospective adoptive parents can select a child according to its age, ethnic group, information about the mother, etc.

104. In defence of the current system of adoption in Guatemala, the Special Rapporteur was advised by representatives of the Institute for Family Law (Instituto de Derecho de Familia) that the issue of adoption is considered to be politically manipulated. Effective checks are said to be in place, and it is not true that standards for adoption are not clear. It is further considered that adoption is one of the most controlled processes in Guatemala and that Law 5477, which grants voluntary jurisdiction in adoption cases, is a very advanced law and has been used as a model by other countries. The Law had been enacted because the courts were overwhelmed with adoption cases and the legislation provided that in cases where there is no litigation, the court could delegate them to a professional specialized lawyer. It was claimed that these procedures are constantly subject to supervision and control by the State organs, and that the lawyers involved merely carry out certain acts that are also controlled by the State. The result was to streamline the whole procedure: instead of taking one or two years an adoption could be done in a quarter of the time; this was particularly important for a child needing to join his new parents quickly.

105. The Institute considered that the system of adoption should continue as it is - handled by lawyers who know the procedure - because to transfer control to the State would encourage corruption and lessen the possibility of children finding a family. This concern was also raised by the representative of the United States embassy, who considered that despite the many weaknesses of the current system, a transferral of full control of adoption procedures to State authorities would not rid the system of corruption and personal financial gain, and might have the effect of keeping more children in orphanages.

B. On commercial sexual exploitation of children

106. The most common and visible form of commercial sexual exploitation of children in Guatemala is prostitution. The use of children in pornography is also known to exist, but the secrecy that surrounds this kind of exploitation makes it more difficult to establish.

107. Child prostitution is present in all four places visited by the Special Rapporteur, Guatemala City, Escuintla, Tecún Umán and Cobán, in varying degrees. The underlying causes pushing children into this kind of exploitation are generally very similar. The most common factor is the disintegration of the family structure, thereby depriving the children of their best means of protection. As in other parts of the world, the children who are at greatest risk of being drawn into commercial sexual exploitation are the marginalized children. Many of the children who had gone to Guatemala between the end of 1998 and the time of the Special Rapporteur's visit in 1999 had come from El Salvador and Honduras, having lost their families or their families' source of income when Hurricane Mitch devastated those countries.

108. The methods used to recruit children into prostitution in Guatemala are very similar to those seen in other parts of the world. The children are lured by promises of legitimate jobs or by promises of huge incomes only to find themselves at the mercy of middlemen.

109. The Special Rapporteur reiterates her concern about the close linkages between drug addiction and prostitution and/or pornography, which are also very apparent throughout the country, particularly with respect to street children. Drugs seem to be part and parcel of the everyday life of the children in the streets and in the bars and brothels.

110. In Guatemala City and Escuintla, the street children are in as much danger of being prostituted as the children who are in bars and brothels or in closed private houses. Street children are not yet as visible in Tecúm Umán and in Cobán but the signs are that the number may escalate quite rapidly.

111. The children of indigenous peoples are the most vulnerable to sexual abuse, commercial or otherwise. Those who were orphaned in the civil war or who are displaced find great difficulty in coping not only in a different place but also with people of different cultures and ethnic backgrounds. Discrimination based on racial, social, ethnic, economic, and even geographical and language considerations, is not only very palpable in the attitudes of the ordinary people in the streets, it is also very clearly present in government policies.

V. RECOMMENDATIONS

112. The Special Rapporteur would make the following recommendations:

(a) Both the Children and Adolescents' Code and an adoption law should be adopted and enforced without further delay, followed by a national campaign to raise awareness of their provisions throughout society. Child prostitution and child pornography should be criminalized and the elements thereof well defined;

(b) Adoptions should be carried out only by State bodies and all the professionals involved, from the social workers to the judges, should be highly qualified and highly paid, in order to establish an efficient and effective system of adoption and reduce the temptation of those involved to accept large sums of money to facilitate adoptions of questionable legality. Ideally, an autonomous centre should be created and mandated to deal with all aspects of adoption, from selecting the parents for the minor, e.g. on the basis of a study to determine their qualification, to presenting the study and all other documentation necessary for a legal decision to be made;

(c) The Government should involve all relevant sectors, including representatives from legitimate orphanages, in the drafting of policies and legislation concerning the adoption of children;

(d) The roles to be played by all the different actors involved in the adoption process must be clearly defined, transparent and adhered to;

(e) Social workers should carry out home visits to the birth mother to ascertain the veracity of her desire to give the child up for adoption;

(f) "Casas cunas" should be registered and carefully monitored;

(g) When the certificate of abandonment is being examined, poverty should not be accepted as a reason for a woman to give up her child. Every effort should be made to keep the

child in the family and within its ethnic group. If this is not possible, adoption should preferably be by Guatemalan parents, then by foreigners residing in Guatemala, and as a last resort by foreign parents;

(h) When a Guatemalan child is given up for adoption and leaves the country, it is rare to receive information about the child's future life. There is a need to explore ways for ongoing monitoring of the child, particularly given that the adoption might not be recognized in the country to which the child is taken;

(i) Guatemala has a great need for many more schools and for them all to be better equipped, especially in rural areas, notably Cobán. Education should be available to all children, regardless of whether they can afford the registration fee;

(j) There is a need for bilingual education in schools, and bilingual information and awareness-raising on the rights of the child directed at adults. Education methods should be innovative, including through a better use of the print and broadcast media, which should broadcast in the local languages as well as Spanish;

(k) Greater efforts should be made to deal with the problem of street children, which appears to be on the increase. In this regard, police and all law enforcement officials should be sensitized to the needs of such children, and any cases of police brutality against street children should be dealt with effectively and well publicized. Conversely, there is a need for school programmes to teach children not to view police as enemies but as friends, and to develop children's confidence in police officers;

(l) Places where street children congregate should be better monitored by the police, who should not merely round them up but should work with organizations such as Casa Alianza to ensure their protection and encourage them to find alternative lifestyles. In this respect, the Government should lend greater support to the organizations which are trying to help these children, especially through the provision of resources to establish and maintain shelters and centres in which such children can seek refuge;

(m) The extensive problem of drug addiction must be addressed through public national campaigns. Virtually all the street children whom the Special Rapporteur met were addicted to drugs, glue or alcohol, and it is imperative that this be addressed;

(n) Minors courts should be established throughout the provinces and cities of Guatemala. Currently, many young alleged offenders are sent to Guatemala City to be tried and may end up in a borstal or juvenile detention centre for long periods of time some distance away from their families;

(o) The extensive occurrence of incest, especially the practice in some communities whereby the father takes his daughter's virginity, must be addressed by the Government as a matter of priority through educational campaigns and legislative initiatives;

(p) Rehabilitation programmes for all child victims of sexual offences, whether incestuous or commercial in nature, should be established and adequately resourced;

(q) Although Guatemala participated in the Stockholm Congress and undertook to work for the eradication of the commercial sexual exploitation of children, no government agency has been given responsibility for follow-up action. Therefore, the Special Rapporteur would strongly recommend the establishment of a focal point to take responsibility in this regard;

(r) The Government should commit itself, through bilateral and regional arrangements with neighbouring countries, to eradicate the traffic in children.

Annex

SELECTED LIST OF ORGANIZATIONS AND INDIVIDUALS WITH WHOM THE SPECIAL RAPPORTEUR MET DURING HER MISSION

Fredy Ochaeta, Director de la Oficina del alto Comisionado en Guatemala para los Derechos Humanos

Maria Noe Vaeza, Representante Residente

Gustavo Mora, Coordinador Residente ad interim

Roberto Gálvez, Jefe de Programas, Programa de las Naciones Unidas para il Desarrollo (PNUD)

Susana Carrillo, Representante, Programa de Voluntarios de las Naciones Unidas (VNU)

Jean Arnaulth, Jefe de Misión, MINUGUA

Elizabeth Gibbons, Representante, UNICEF

Dr Eduardo Stein, Ministro de Relaciones Exteriores

Bruce Harris, Casa Alianza

Maureen Evans, Executive Director, Joint Council on International Children's Services

Andrea Satawitch, Director, Bay Area Adoption Services

Redd Barna

GTZ (Organismo Alemán para la Cooperación Tècnica)

Médicos sin Fronteras

Unión Europea

Organización Internacional del Trabajo (OIT)

Tecúm Umán

Sister Angelica, Madres Oblatas

Obispo Ramassini

Cónsul Mexicano en Tecúm Umán

Escuintla

Jesús Navas Masilla, Gobernador Departamental

Stanley Peláex, Director, Departamental de Educación

Sr. Logan, Alcalde Municipal

Edwin Orlando, Comisario General, Policia Nacional Civil (PNC)

Sr. Orantes, Proyecto GTZ

Representante, Proyecto del Christian Children's Fund

Representante, Asociación de Desarrollo (ADESMA)

Presidente, Maternidad de Escuintla

Bernarda Ruiz, Procuraduría de Derechos Humanos

Representante, Encargado de Paz

Celia Veliz, Juzgado de Familia

Representante, Procuraduría General de la Nación

Sra. Hernández, Hospital Nacional

Embajadora Social, Centro de Salud Pública

Representante, Asociación Pro Bienester de la Familia (APROFAM)

Sr. Nicolás, Asociación Cultural Poqomam Qawinaqel

Representante, Grupo de Mujeres

Representante, Coordinadora de Mujeres

Cobán

Fundación de la Mujer Maya del Norte

Pastoral Social

Asociación Amigos del Desarrollo para la Paz

Director de Bienestar Infantil

Procuraduría General de la Nación, Región III

Fiscal Distrital del Ministerio Público

Comisario de la Policía Nacional Civil

Gobernador Departamental

Alcalde Municipal

Procurador de la Auxiliatura de los Derechos Humanos

Directora de la Escuela Oficial para Niñas No. 1 Felipa Gómez

Supervisor Departamental de Educación

Guatemala City

Julio Arango Escobar, Procurador de los Derechos Humanos

Marilys de Estrada, Defensora de la Niñez

Marta Altolaguirre, Presidente, Comisión Presidencial de Derechos Humanos

Representantes de las embajadas de Canadá, los Estados Unidos, el Reino Unido y Francia

Adolfo González Rodas, Fiscal General de la República y Jefe del Ministerio Público

Marco Tulio Cajas López, Secretario de Bienestar Social de la Presidencia de la República

Ángel Conte Conjulún, Director, Policía Nacional Civil

Rosalina Tuyuc, Presidente, Comisión de la Mujer, el Menor y la Familia

Nineth Montenegro, Presidente, Comisión de Seguimiento al Código de la Niñez

Leonel López Rodas, Presidente del Congreso de la República

Mario Taracerna, Miembro del Parlamento Centroamericano

Oscar Navarro Ponce, Presidente, Organismo Judicial y la Corte Suprema de Justicia

Representantes del Instituto de Derecho de Familia